Health
COMMUNISM

PHARMACOLOGY

Intellectual property rights can be readily conceived not as property, but as regulation, and their insertion into international law as not a move toward free trade, but instead as a result of protectionism and rent-seeking.

—Amy Kapczynski[1]

Health and public hygiene slow the exhaustion of labour power … Public education cover[s] future needs for trained manpower … Public city transportation, financed by the entire population, deliver[s] manpower to the factories in good condition … Nationalization of energy sources and raw materials place[s] onto the shoulders of the entire population the burden of supplying industrial needs at low cost. The expansion of public activity, in short, is welcome so long as it limits itself to publicly pre-financing the basis of monopoly expansion and accumulation.

—André Gorz

It is crucial to understand extractive abandonment not only as a national process of the state, turned inward on its own population, but also as a process turned outward to target international populations. The twentieth century saw dramatic shifts in the policy orientations of these various imbrications of health and capitalism. The United States and other wealthy capitalist countries are best understood as having served as hosts to the growth of the health-capitalist relationship, incubating the various health industries and taking an active role in assisting with their spread. In few health industries is this process clearer than in the pharmaceutical industry. Throughout the twentieth century, US imperialist practices were wielded in no small part through the private pharmaceutical industry, with the explicit goal of furthering a US- and Euro-centric capitalist hegemony. In the process, entire nations were, and remain, pathologized and marked as surplus, to which the logics of extractive abandonment were then turned. This essentially colonial framework is the subject of PHARMACOLOGY.

The extension of colonialism via the dynamics of global trade relations is far from a new observation. As early as the 1950s, the USSR was publicly accusing the US, during United Nations meetings, of using its trade proposals to advance an agenda that would displace European colonial power into the hands of the United States.[2] The particulars of how this was achieved by the US, European nations, and a handful of transnational corporations who dominated the drug trade in the mid-twentieth century, however, demonstrates the essential position health—and the ability to define and manage it—plays in contemporary capitalism. It also shows the importance of an internationalist agenda pursuing the liberation of health from capital. Pharmaceutical companies are among the most visible examples of the threats posed to global public health by the international spread of health-capitalism. They operate as extrastate international actors and, as we will demonstrate, actively participate in both the marking of entire nations as surplus and in constructing a global rationing regime for therapeutics and care.

The importance of internationalism is not simply to wrest profits from a massive global enterprise. Capitalist control of international pharmaceutical research, manufacture, and distribution has demonstrable negative effects on global public health.[3] Just as states are marked as surplus under the trade and intellectual property regimes that constitute the global drug industry, so too are entire categories of people marked as surplus by the deprioritization of orphan drug development under global capitalism. Drug development, while largely directed by wealthy capitalist states as a matter of public funding, is largely oriented toward a work-reparative goal in resonance with the capitalist debt and eugenic ideologies discussed in previous chapters. Drugs are, in short, increasingly valuable as a subject of capitalist management, as a regulatory mechanism for moving people across the worker/surplus divide.

Movements for health justice would do well to recognize the global specter that pharmaceutical companies portend. National health movements—for example, the Medicare for All movement in the United States, or movements to defend or expand the UK's National Health Service—can only accomplish so much if the role of global pharmaceutical companies is allowed to persist. With this in mind we will turn, at the close of this chapter, to a key period for the activist group ACT UP in the late 1980s and early 1990s, when the group wrestled with internal conflicts over their approach toward pharmaceutical companies. Bringing drug research, development, manufacture, and distribution under global international control within a health communist framework would itself constitute a substantial attack on global capitalist hegemony. Health communism must be international.

This is one area where we break with predecessors who have conducted analyses of the political economy of health. It is crucial to understand that pharmaceuticals and therapies are not simply expensive, and generally so valuable as to be the subject of thorough capitalist regulation, because of some nefarious process of marketing driven by capitalist ambition toward endless growth.[4] Equally, we reject the idea that the regulation of "drug prices" is an essential component to national health systems, or that national health systems, as welfare programs, should ration the types of pharmaceuticals available to their publics in order to "reduce costs" to the system. Any liberatory health movement that believes in the necessity of rationing care will fail. To do so is to accept the capitalist logic that health belongs to and is of the market, one component in a broader cost-benefit analysis chart (for instance, the often cited line in US health-capitalist discourse that healthcare prices are high because of the "overutilization" of health services).[5] Logics of rationing and the biocertification of a "deserving" drug recipient also reflect attitudes cemented during the twentieth century that demarcated licit from illicit drugs and set a formal role for the state as a manager of that divide. This framework assumes that the holes in the safety net are meant to be there, as is the debt/eugenic burden, and just need to be budgeted properly by the state.

Instead, we assert that pharmaceuticals are valuable to capital precisely because they can serve essential functions in managing public health of national and international populations. The growth of this industry, particularly in the twentieth century, is ample evidence of this. Pharmacology has been employed as a colonial arm of the major capitalist empires to explicitly and deliberately advance the further spread of US and European capitalist state structures. Identifying the global colonial role the pharmaceutical industry plays is critically important to resisting extractive abandonment, both within national boundaries and beyond.

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In the twentieth century, the pharmaceutical industry emerged as a key component of capitalist empire, exemplified by the US state. This relationship is symbiotic: In some instances, the state turned to pharmaceutical companies as a vessel for outward colonial and economic expansion. In other cases, pharmaceutical companies did the same, turning to the state for assistance in expanding their markets and monopolies through diplomatic or juridical tactics, or through overt threats of violence or the oppression of external states. In the process, a relationship was forged between state power and global pharmaceutical enterprise that precipitated the rise of capital in its current role as defender of a global intellectual property regime.

The 1950s marked a significant turning point for the ascendant pharmaceutical industry in the United States. In this decade, as the US sought to expand its grip on the international economy, a significant reorientation took place in the role of drugs in society. The industry dominance of European pharmaceutical companies began to wane, and they were supplanted by US and transnational corporations. The ascendancy of US firms was not, however, preordained. At each stage, US state power was mobilized to defend private industry and establish US dominance of the global market to head off the perceived threat of communist ideology. This provoked a reaction: by the end of the decade, a growing domestic resentment in the US toward high drug prices would manifest in a series of high-profile hearings led by Senator Estes Kefauver, which sought, unsuccessfully, to establish greater state regulation of drug development and prices.

In the Kefauver hearings, criticizing the US drug industries was framed as a question of Cold War loyalty. For example, Lowell Coggeshall, vice president of the University of Chicago, testifying in the Kefauver hearings, warned that criticism was detrimental because the United States' "excellence in the treatment of disease may very well be decisive in the ultimate outcome" of the Cold War.[6] Most profoundly, these issues would merge with expanding the state definition of "illicit" drugs as a justification for the designation of a population as "waste" and their subsequent mass incarceration—carceral abandonment.

The Kefauver hearings provide a valuable situational context for the ascendant position of pharmaceutical companies at this time. For example, during the hearings Merck president John T. Connor defended the moral imperatives of the pharmaceutical industry as vectors of capitalism, "fighting the spread of communist ideology," noting that this was why Merck had made efforts to establish corticosteroid manufacturing plants in developing countries.[7] These efforts, however, had little to do with fighting communism and everything to do with massive disruptions in the global steroid trade in the 1950s, as initiated by Syntex, a (capitalist) pharmaceutical company in Mexico.

In the early twentieth century, European firms had developed a method of synthesizing steroid hormones from animal cholesterol, a costly and slow process that limited the mass production of steroid and hormone treatments. By the late 1940s, Syntex (working with American chemist Russell Marker, who had defected from Pennsylvania State University to start a lab in Mexico City) had developed a method to produce progesterone from the plant genus Dioscorea, and later from the barbasco plant, an abundant resource then categorized as an invasive species. By 1950, Syntex had developed methods to synthesize not only progesterone but also androgens, estrogens, and corticoids. The impact of this quicker, cheaper process was swift. According to sociologist

Gary Gereffi, “Most of the steroid manufacturers in Europe and the United States were thus forced to abandon their own processes and either use Mexican starting materials or buy their finished hormones from Mexican sources.” By the end of the 1950s, 80 to 90 percent of global steroid production was done by a handful of Mexican pharmaceutical companies. Despite this figure, Syntex faced such steep barriers to international markets that it emerged principally as a raw material supplier, and it was only allowed to enter these markets after its sale to an American holding corporation in the mid-1950s. By the end of the decade, American and transnational pharmaceutical companies like Merck, with the backing of the US government, could succeed in entering the Mexican market directly, attempting to bypass companies like Syntex entirely.[8]

Merck’s activities abroad, and in Mexico in particular, then, were far from the capitalist-humanitarian and anti-communist mission its president had portrayed in the Kefauver hearings. Prior to Syntex’s developments, Merck had been the only producer of cortisone in the world, using a much costlier, slower process.[9] In 1955, Merck, along with Pfizer and four other American pharmaceutical companies, began to lobby the Counselor for American Affairs in the US Embassy in Mexico and Mexico’s Secretary of the National Economy to protest what they saw as market manipulation and intervention by the Mexican state in international trade dynamics. This resulted in Syntex being compelled into a licensing agreement with the US government to sell its materials to the American market, followed by Syntex being brought before a Senate committee hearing in 1956 over alleged “patent infringement.” Just two months before the hearing, Syntex was sold to Ogden Corporation, an American holding company.

These strategies—corporate-capitalist and US power aligned in an overt defense over “property rights”—formed the mobilizing strategy to regulate pharmaceutical capital throughout the twentieth century. The case of Syntex is broadly illustrative of the myths that solidified around this time that the production and refinement of new drugs to treat or forestall disease was unique to the innovative ethos of American and European capitalism. This was, and still is, a fantasy. The claim that “developing” countries are incapable of producing new drugs, or drugs of good quality, is not truth but rather political repression enforced by trade regimes; it is an expression of colonialism.

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The case of Syntex demonstrates the increasing reliance on the technology and enforcement of patents since the twentieth century. As Gereffi notes, “The earliest ‘wonder drugs’—sulfanilamide, penicillin, cortisone, and hydrocortisone—were not patented. Improved versions of these products … were patented, but the patents were licensed widely” to other pharmaceutical manufacturers. After widespread licensing led to an abundance of drugs in the market and a steep drop in prices in the 1940s, pharmaceutical companies instead turned toward using their patents to intentionally restrict available supply. In other words, “by not licensing their patents, firms were able to restrict output of their own drugs to levels where monopoly products could be maximized.”[10]

This led to public outcry and the Kefauver hearings at the end of the 1950s. Among Senator Kefauver’s policy goals for the hearings was to establish legislation dramatically restricting the length and scope of pharmaceutical patents. Industry representatives, as well as academic physicians and scientists who had worked with or for pharmaceutical companies in the past, came to the defense of the pharmaceutical patent system. This was the context in which Coggeshall referred to pharmaceutical companies as playing a critical role in the Cold War. Coggeshall was echoed by Dr. Philip S. Hench, who had worked with Merck on the development of cortisone, when he stated, “At this time when we are in a most serious scientific race with Russia,” Congress should not “endanger by legislation the scientific, professional, and industrial teamwork that has been responsible for putting us far ahead of the Russians in at least this one regard.”[11]

Perversely, Hench and others argued specifically against the curtailing of drug patents by using steroid production as an example, echoing the ongoing market disruption caused by the new production methods for synthetic steroids and hormones. One of Kefauver’s proposed patent limitations would reduce the ability of drug companies to file new patents on minor changes to drug composition (thus curtailing the renewal of intellectual properties close to expiry, referred to by critics of intellectual property regimes as "evergreening"). Hench proclaimed the proposal disastrous, asserting that "the current history of corticosteroid pharmacology has taught us … that marked, indeed profound physiological and therapeutic changes can be, and have been, obtained from making what had appeared to be minor molecular changes."[12] Another physician, Dr. Edward W. Boland, wrote to the Kefauver subcommittee that "during the last 8 years much knowledge had been gained regarding the effects of chemical alterations on the physiological properties of steroids," and that changing the patent qualifications would "discourage continued efforts to modify the molecular structures of steroids and … impede the introduction of new drugs."[13] The irony of both these defenses is that US patents had done little to aid the advancement of scientific development of steroids at this time. If anything, the patent system had just been mobilized against new developments from outside the United States. Testimony in defense of the pharmaceutical patent system included Vannevar Bush (who had worked at Merck), who warned of the patent provision in Kefauver's bill, "You gentlemen have a blunt instrument in your hands. If you use it you will do great harm."[14]

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The pharmaceutical industries and the relationship of drugs to the American state in this period cannot be evaluated solely on the basis of the state as a mediating factor between various enterprises manufacturing licit drugs for individual consumption. A significant amount of the leverage and monopoly stakeholder position drug companies were able to take at this time stemmed from direct cooperation between the state and private corporations in order to preclude some drugs from the market as "illicit."

By the 1950s, the categorization of illicit drugs, and the corresponding policing and regulation of these drugs from American bourgeois society, had taken hold. Cold War hysteria positioned the United States as subject to demographic and biological threat from agents of communism. Despite the fact that the United States had become, following World War II, the preeminent global supplier of narcotic substances such as cocaine, a concerted effort was made by government officials, including Harry Anslinger, commissioner of the Federal Bureau of Narcotics (predecessor to the Drug Enforcement Agency), along with innumerable media figures, to push the baseless claim that the United States was subject to an epidemic of heroin use directly pushed by communist forces.

These allegations were rampant in the American public imaginary of the early 1950s. Public officials and industry leaders asserted that the US was subject to, in the words of Anslinger, “chemical (heroin) warfare” perpetrated by the Chinese Communist Party. The common assertion was that China was bringing heroin into the United States for the purpose of suppressing the American public, deriving significant illicit profits as a result. The New York Times echoed these sentiments in its editorial pages, running with assertions that “narcotic addiction [is] a weapon against the societies in which it can get a foothold,” and “teen-age addicts in New York are helping to pay for the shells that kill American boys in Korea.”[15] The US Office of National Drug Control Policy put out a series of ads to this effect, with text reading “Where do terrorists get their money? If you buy drugs, some of it might come from you.”[16]

As historian Suzanna Reiss notes, the situational irony of these claims—for which evidence was never produced—was not lost on the public officials who promoted them. It was well known that from the eighteenth century, the British East India Company had participated in colonial economic warfare on China through the opium trade, culminating in the “opium wars” of the nineteenth century. American public officials simply inverted this relationship, suggesting that China was now turning the same tactics of economic warfare toward the American empire.

These ideas would remain pervasive in American society through the 1950s, with a wide variety of public figures voicing consternation over the threat of communist heroin. Many of these arguments characteristically conflated this supposed biological threat with an economic one, leading to such proclamations as: “Red treasuries swell as free world consumption of drugs mounts. The social aspect of the menace is evident in the degenerating effects upon our youth." And, "Our Communist enemy has invaded. They are shooting our youth with drugs instead of bullets." Senator Alexander Wiley, chair of the US Senate Committee on Foreign Relations, went so far as to implicate Mao Zedong himself:

Mao Tze-Tung is engaged in undermining the health and morale and the strength of our boys in the services … It is not just a few skunks around the corner that are handling it … it is the result of people in high places, like Mao Tze-Tung, who is using [opium] as a weapon to deteriorate the morale and health of this country.[17]

The anti-communist hysteria in the United States, mobilized explicitly toward the designation of illicit drugs as a social and political menace, would quickly lead to pathologization and explicit calls for the extractive abandonment of drug users and their demarcation as surplus. This pathologization was used to great effect to police and incarcerate members of the surplus populations at a time when anti-colonial, anti-racist, and leftist sentiment was high in these communities. Drug use was invoked as an inherent pathology in language that recalls the rhetoric mobilized against the ill, the disabled, the mad, and the paupers of prior centuries: "Addiction, then, is a disease of high social contagion that not only may produce criminality … but also tends to attack those persons whose resistance to anti-social activity is, for a multitude of reasons, notoriously low."[18] As Reiss notes, this rhetoric and the escalation of disciplinary control over newly illicit drugs dramatically escalated policing through the 1950s, as well as incarceration, marking a significant development in the shape of contemporary American racial capitalism. The Boggs Act of 1951, for example, was an early statute passed in a wave of legislative activity defining carceral preferences toward illicit drug use. The Boggs Act established the first mandatory minimum sentencing, which persists to this day as a principal tool of state subjection fueling mass incarceration.

The carceral attitudes of the era extended to the direct, and literal, comparison of what was to be done with people using newly illicit drugs to the previous approach to madness and the designation of the worker/surplus divide. Echoing the history we have discussed in earlier chapters, one prosecutor invoked the asylum system as the ideal solution to the social menace of drug use:

The plan calls for the hospitalization of addicts on a massive scale … Some of these … might be work camps; others might be on farms … others—more immediately available—would be existing institutions, such as mental hospitals with beds that have been emptied through the miracle of tranquilizers and improved therapy, or tuberculosis sanitariums vacated by the new wonder drugs.[19]

Rhetoric like this was successful in prompting early significant international agreements on the regulation of the drug trade. A 1953 initiative by Anslinger and the FBN to control the opium trade was adopted nationally and became the subject of a decade-long campaign to shape international law (it was instituted internationally in 1963). The protocol limited opium production to Bulgaria, Greece, India, Iran, Turkey, the USSR, and Yugoslavia, and put limits on the importation of these substances according to "legitimate demand"—defined as only enough to meet "the medical needs of the world." Crucially, the arrangement allowed for on-site inspections of any producing facility, and any state found to have a facility in violation could be subject to austere trade embargo. The treaty was understood as one of "the most stringent drug-control provisions yet embodied by international law."[20] This formalization of states internationally policing the boundaries between licit and illicit drugs through trade policy—enforced through sanctions and economic or military retaliation—prefaced the establishment, later in the century, of trade laws as the central disciplinary apparatus behind "licit" drugs.

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Decades later, the largely separate battles in the 1950s over pharmaceutical patents and international trade regulation would become intimately linked to the power and capital accumulation of American corporations. In the process, the respective roles of industry and the state in pharmaceutical production and the regulation of the political economy of health would become further defined, while also further imbricating the two.

The developing role of patents in the protection of pharmaceutical monopolies, as illustrated in the events surrounding the Kefauver hearings of the 1950s, was the direct precursor to the set of international intellectual property controls mobilized by global capitalism today. This is true not only of drug patents but of all varieties of intellectual property: the principal trade arrangements in the 1990s were in large part executed because of stakeholder mobilization from pharmaceutical companies and a set of other allied industries (in particular, the computer and software industries). In fact, there is a clear body of legal scholarship that locates the development of the current global intellectual property regime, particularly as manifested in the powers of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement discussed below, as stemming directly and intentionally from legal frameworks proposed by industry stakeholder groups themselves. That is, the primacy of intellectual property to contemporary international trade was developed by those most concerned with protecting and regulating their own intellectual property interests.

Susan K. Sell documents this lineage in her scholarship, asserting that, importantly, "the recent globalization of intellectual property rights originated in the United States."[21] This is true not only because the main agitating forces behind the current intellectual property regime were American diplomats, but also because a small group of American capitalists functionally dictated the main intellectual property protections that state representatives sought during international negotiations. This group, the Intellectual Property Committee (IPC), was made up of a rotating coalition of around a dozen corporate executives led principally by Edmund Pratt, CEO of Pfizer, and John Opel, CEO of IBM. As Sell writes, "These private sector actors succeeded in getting most of what they wanted from an [intellectual property] agreement, which now has the status of international law. In effect, twelve corporations made public law for the world."[22]

What this group of industrialists won in the ratification of the TRIPS agreement was the conflation of intellectual property concerns with trade issues.[23] Prior to the TRIPS agreement, the World Intellectual Property Organization had no effective enforcement mechanism of its own.[24] In other words, earlier in the twentieth century pharmaceutical patent protections were policed through few real mechanisms to exert state power over parties found to be "infringing" property rights. Intellectual property, itself a muddy juridical concept, might be enforced in one locale in one way and unenforced in another, with no existing punitive apparatus backed by state power to support pharmaceutical companies ready to demand reparations for a putative violation of their property rights.

With TRIPS, recognizing intellectual property of all kinds—including pharmaceutical patents—was made a condition of international trade participation for World Trade Organization members, and correspondingly tied to existing mechanisms of state and imperial punishment for trade violations. Only as recently as the mid-1990s, with the ratification of the TRIPS agreement, did a formal mechanism come into place whereby an international pharmaceutical company could protest drug production or development around the world and expect to see swift political, military, or economic action by the US and other imperial WTO members against the "offending" state. As Amy Kapczynski has noted, the link between intellectual property protections, global trade regimes, and state power has produced a "persistent threat of unilateral retaliation" for states that would ignore or reject international corporations' patent rights.

These dynamics mark a finite barrier between wealthy "developed" nations and those consistently held underneath as vessels of extraction. It is a colonial process that marks entire states as surplus.

Those in violation of trade agreements are pilloried for engaging in a kind of phenomenological theft, regardless of whether the corporate owners of the intellectual property have any interest in producing a given drug for the market the “infringers” are supposedly superseding them in. This dynamic was made explicit in the conversations leading up to the ratification of TRIPS and in efforts to compel signatories to the cause. According to Jacques Gorlin of IBM, IPC’s director, the goal of the proposals that became the TRIPS agreement was to “avoid the obstructionist tactics of the [less developed countries].”[25]

This narrative—that states who ignore intellectual property claims by pharmaceutical companies are engaged in theft—remains pervasive. For example, in 2012, India issued a compulsory license for sorafenib, a cancer drug principally owned by Bayer (marketed as Nexavar). This compulsory license was fully consistent with the TRIPS agreement, but Bayer, which had been selling the drug in India for the equivalent of $5,500 per month, retaliated in international court and put pressure on the US state to threaten the country with sanctions. At a Financial Times event following this incident, Bayer’s CEO Marjin Dekkers would say of the dispute:

I don’t know if you’ve even been to India, there are a lot of poor Indians obviously, and the hospitals aren’t that close by [laughs] to where they live, so we found that this was extremely politically motivated and essentially, I would say, theft. Of the Indian government, of a capability of a company that is patented, and therefore a patent right. So now, is this going to have a big effect on our business model? No, because we did not develop this product for the Indian market, let’s be honest. I mean, you know, we developed this product for western patients who can afford this product, quite honestly. It is an expensive product, being an oncology product. But you know the risk in these situations is always spillover. If this generic Indian company is now going to sell this product, then South Africa, and then New Zealand, you never know, you know, how this is going to spillover. And that puts the whole industry and the patent right of an industry at risk.[26]

In addition to positioning this compulsory license as “theft,” Bayer immediately lobbied the US government to take punitive actions toward India in retaliation. Two weeks after India filed its compulsory license, US Commerce Secretary

John Bryson flew to New Delhi to meet with India's Minister of Commerce and Industry, warning that pharmaceuticals were "a competitive area" for the US and that "any dilution of the international patent regime was a cause for deep concern."[27] India was shortly thereafter placed on the United States' "priority watch list," broadly understood as a threat of international sanctions—economic and material warfare under global capitalism.

Importantly, this scenario is not an outlier; it is the desired outcome of the TRIPS agreement. These actions are now a matter of course when pharmaceutical companies feel threatened by the prospect of surplus nations rejecting property rights to address the health of their populations. In 1998, South Africa was placed on the priority watch list simply for having a law in place that would allow compulsory licensing. In 1999, when Thailand considered compulsory licensing for an expensive AIDS drug, they were threatened with sanctions, and ultimately placed on the priority watch list when they acted on the compulsory license in 2007. As Sell writes, "Corporations also pursue normative power, or the construction of the normative context. This normative context defines right and wrong, and distinguishes fair from unfair practices."[28]

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The role of global pharmaceutical companies in reinforcing the power of capital and the state must therefore be understood as a key challenge for health communist movements, ultimately toward the abolition of capitalism. It is with this in mind that we conclude this chapter with a coda on the radical potential contained for a period within the group ACT UP in the 1980s and 1990s. Ideological conflict over the issue of drug development led to the formation of Treatment Action Group (TAG), and a split within the movement about whether to work alongside or against dominant structures of health-capitalism. We understand the conflicts presented in the remainder of this chapter as a cautionary tale of what is lost when solidarity is abandoned.

The AIDS Coalition to Unleash Power, or ACT UP, was a grassroots political group working to fight the HIV/AIDS epidemic formed in New York City in 1987.[29] Leaderless in theory, ACT UP was an organization with an explicitly horizontal membership model.[30] The group was divided into various caucuses and committees organized around different issues and constituencies, like the Finance Committee which managed overall accounting; the Housing Committee, which later broke off and became the independent organization Housing Works; the Media Committee; the Actions Committee, which coordinated a constant series of campaigns, protests, political funerals, mutual aid projects, and zaps (their term for direct actions); the Latino Caucus, which was formed around issues of pharmaceutical access in Puerto Rico; and the Women's Caucus.[31] Each group was unified in solidarity through centralized funds.[32] ACT UP demonstrated that through direct action protest, the immense power that pharmaceutical companies had to make live, rather than let die, could be quickly mobilized, though only when faced with relentless and militant public outrage.[33]

ACT UP's tactics differed from those of other HIV/AIDS groups at the time, most of whom focused on providing healthcare within the community or worked in more formal non-profit arenas, funded by grants from local governments or grants from other charitable foundations. ACT UP was confrontational, particularly in their earliest tactics. As Larry Kramer remembered in 2007:

These are just a few of the things ACT UP did to make the world pay attention: We invaded the offices of drug companies and scientific laboratories and chained ourselves to the desks of those in charge. We chained ourselves to the trucks trying to deliver a drug company's products. We liberally poured buckets of fake blood in public places. We closed the tunnels and bridges of New York and San Francisco … We tossed the ashes from dead bodies from their urns on to the White House lawn … We infiltrated the floor of the New York Stock Exchange for the first time in its history so we could confetti the place with flyers urging the brokers to "SELL WELLCOME." We boarded ourselves up inside Burroughs-Wellcome, (now named GlaxoSmithKline), which owns AZT, in Research Triangle so they had to blast us out. We had regular demonstrations, Die-Ins we called them, at the Food and Drug Administration and the National Institutes of Health, at City Halls, at the White House, in the halls of Congress, at government buildings everywhere, starting with our first demonstration on Wall Street, where crowds of us lay flat on the ground with our arms crossed over our chests or holding cardboard tombstones until the cops had to cart us away by the vans-full. We had massive demonstrations at the FDA and the NIH. There was no important meeting anywhere that we did not invade, interrupt, and infiltrate. We threatened Bristol-Myers that if they did not distribute [Videx] immediately we would manufacture it ourselves and distribute a promising drug some San Francisco activists had stolen from its Canadian factory and had duplicated.[34]

ACT UP's actions were reinforced in their radical rhetoric and demands. (This would continue long after the group's actions had become less aggressive. For example, in 1995, when US National Institutes of Health Director Dr. Anthony Fauci was invited to speak at a benefit dinner by another group, Project Inform, celebrating "Ten Years of Hope" against the HIV/AIDS crisis, ACT UP members circulated an open letter proclaiming that "With 270,000 dead from AIDS and millions more infected with HIV, you should not be honored at a dinner. You should be put before a firing squad."[35])

Their radical aggression was more than warranted. As Gregg Bordowitz explains:

In 1985—people don't realize that in the mid-1980s, at very high levels within the Reagan administration, quarantine and mandatory HIV testing were considered viable policy options. You had people like [William F.] Buckley, who said that gay men should be tattooed on their ass, and drug users should be tattooed on their arms, so the invisible threats would be rendered visible. We were aware of the history of internment of the Japanese during World War II … We were very scared that the Reagan administration was going to put people with AIDS in internment camps. And I think we came close to that in this country. I do not think we were simply panicking or engaging in some kind of conspiratorial fantasy … I remember thinking through those problems, and what would be a legitimate response. How could we defend ourselves from being put into camps? I remember thinking aloud that perhaps armed resistance would be one justifiable means … That's how serious the threat seemed to me at that time … The FDA action put us on the offense and enabled us to come up with a vision for the way that healthcare should be done in this country, the way that drugs should be researched, and sold, and made available. Most importantly—and I keep returning to this—was the idea that people with AIDS should be at the center of the public discussion on AIDS … We had our agenda. We were just going to seize control of the FDA and run the fucking thing ourselves. We knew that we weren't actually going to do that, but this was it. We were just going to seize control. This was why it was so important, even though many people found that frightening—I was told, "Gregg, back off of that rhetoric." But I just thought it was incredibly important to stay on point with that rhetoric.[36]

With comrades, friends, and lovers dying all around them ACT UP was initially sustained by a wild fight-or-flight survival momentum. As Andrea Benzacar recalls:

That was a period of incredible emergency. People were dying and there was nothing we could do about it. So, when you had these conversations about drugs into bodies and waiting some period of time, well, if you had a friend with KS [Kaposi sarcoma] or you had a friend with CMV [Cytomegalovirus] and there were drugs that were there, that were being tested, you wanted the fucking drugs. And you didn't want to wait around, and they couldn't wait around.[37]

What emerged was what many surviving original members of the group called a "dual strategy." At the time AZT, was the only approved treatment, and was clearly demonstrating to be lethal, often killing people quicker than HIV/AIDS alone; gaining access to different drugs or trial treatments was a matter of life and death.

In 1988, the Treatment and Data (T&D) Committee, the predecessor to TAG, was formed out of what was formally the Issues Committee.[38] The initial goal of

T&D was the dissemination of treatment information.[39] As it became clear that AZT was a deadly and ineffective therapeutic, T&D used the attention ACT UP brought through their direct actions, and the pressure that the rank and file put on pharmaceutical executives, government officials, and researchers to attempt to petition for drug trials and more basic research studying how HIV/AIDS behaved within the body.[40] T&D began to ascertain its own treatment methods and develop its own educational materials, filling a community need that the state and many in the medical professions were not addressing. T&D conducted teach-ins and trained group members to translate the complicated scientific and medical jargon into actionable and usable treatment information for those on the ground who needed drugs or therapies. T&D created strategies for revamping clinical trials, speeding testing and approvals processes, diversifying recruiting, and other regulatory overhauls.[41] They began to amass power and influence within the scientific community, which reflected their ability to pass as insiders.[42]

While this could appear a demonstration of radical solidarism and contestation of hierarchies of expertise, countless members have instead portrayed the actions of T&D—a group largely composed of cis white men—as becoming quickly exclusive, even exclusionary. As Moises Agosto explains in an interview with Sarah Schulman:

MA: Going to the Treatment and Data Committee meetings, I realized that the reason why a lot of these guys kept being healthy was because they had access to the information.

SS: The guys in Treatment and Data?

MA: In the Treatment and Data Committee. They had access to Fauci. They had access to all these people. And I started to wonder, “I want that. And I want it to be everybody else.”

…

I always was with this kind of insecurity that I didn't know enough. It's like that feeling, I always say, when you're a person of color here. It's like you have to prove yourself twice and three times. In the treatment and research area, you have to prove yourself like five times.

SS: To the scientists or to [T&D]?

MA: Both.[43]

Fundamentally, the issue came down to the social reproduction of power. T&D gained professional notoriety within the medical community for their approach to scientific education. This was possible in part because the membership of T&D already reflected power, which was crucial in their transformation from radical outsiders to cozy insiders. As Dudley Saunders explains, this framework of HIV/AIDS activism through the lens of cis white male privilege naturally meant that structural inequity was reproduced within ACT UP itself, despite attempts to run the organization under egalitarian principles and with a horizontal leadership. What resulted was an attitude of liberal tokenism.

If you're a privileged white guy, you've got the—it's easy for you to focus on just making the science happen; just making a drug a cure, because you know you're going to get it. And, of course, you believe that everyone should have access to it, but you're not going to think about that right now. You'll make sure you write in "access to people of color, and women and children." You'll throw that in every time, and, you know, God bless you. But, there was an enormous amount of distrust.[44]

As T&D gained notoriety outside of the group, they became increasingly emboldened to moderate the focus of ACT UP's organizing. This was perhaps most evident in the deprioritization of organizing efforts around non-pharmaceutical HIV/AIDS interventions like condoms and needle exchange programs.[45] Though there was great demand for this work in the community, and though many within ACT UP felt that there was great urgency to pursue these political projects, it was difficult to gain support or attention from what had become the dominant group within the organization.[46] As Jeffrey Fennelly explains, the radical language being used in poster designs promoting safe sex were felt to be outside of the ACT UP mission, demonstrating that to some within the group, the foundation of their activism was the fight for the pharmaceutical cure, leaving little room for nonpharmaceutical interventions:

I'd never spoken before or after that, since then. He argued that "This is not what we were about. We're not about education. That's GMHC or that's whomever, but we're not about that." I was like, "But it will save lives in the long run. It's preventive." "We're not about that. We're about treatment. We're about a cure. We're about saving lives through a cure."[47]

Within T&D, there were concerns about ACT UP's radical tactics of direct action.[48] As many surviving members have noted, there was a sense that the early radical tactics that had gotten ACT UP "in the door" were now gauche. T&D's newfound insider relationship, holding meetings and collaborating with Congress and with representatives of pharmaceutical companies, strained already existing tensions within the organization.[49] As Maxine Wolfe explains, when a group of members attempted to place a moratorium on collaboration with government officials, T&D forced the vote down:

They had already decided, in a way—that whole grouping of men—that their interest lay in pushing the drug stuff. And, unfortunately, their view of things, which was that politics was separate from medicine, prevailed, eventually. But, at that point, that was not what ACT UP was. The beauty of ACT UP was that it was about the fact that medicine is political.[50]

Members who disagreed with T&D, accurately identifying that collaborating with pharmaceutical companies was collaboration with the enemy, describe the attitudes within T&D as a kind of “Stockholm Syndrome”:

And so there was this kind of Stockholm Syndrome happening; that if you, if you argue too much, or yell too loud, and you aren’t reasonable with them, they’ll screw us horribly … A lot of the research on a drug had been done at the NIH, at taxpayer expense, including early clinical trials; and then that drug was licensed to a company, to complete the development piece of it; that they would simply agree not to screw the crap out of people. I’m sure that’s not exactly the terminology they used in the CRADA [Cooperative Research and Development] agreements, but essentially that’s what they were.

And one of the things I’ll never forgive Peter Staley for—as I understand it, and forgive me if I’m wrong, Peter—but was that he went down to Congress, and testified, as an activist, that the CRADA agreements were stymieing AIDS drug development. And I think that was a horrific mistake. I think that was the kind of thinking that characterized a lot of treatment activists.

And to this day, I’m very disappointed with the AIDS Treatment Action Coalition, this ATAC group; which seems to hand out a lot of money to people of color to learn how to be—so-called pharmaceutical—“pharmaceutical-company aware,” so they can go to these meetings and do what? And it begins to almost smell like one of these grassroots organizations that, Schering-Plough, for example, was famous for, around hepatitis C; creating grassroots organization fronts that were really nothing more than marketing tools for them.[51]

The race for the cure had become a justification for polite collaboration with the enemy. ACT UP started to split. Though many surviving members credit this breakdown as inevitable, many more characterize it as a fundamental ideological conflict. Rank-and-file members felt excluded, that their efforts were being undermined by the members of T&D.[52] Many in the Women’s Caucus took issue with the fact that T&D were taking meetings with the very same politicians, government officials, and corporations the larger group was targeting for direct action.[53] As Wolfe notes:

We were doing actions against [CDC HIV/AIDS Task Force Director] James Curran, [T&D member] Mark Harrington was down there, with a woman who—I don't even know her name—was on the Treatment and Data Committee, and they were meeting with the very people who we were fighting against. And, what's more, they were claiming that this woman spoke for women, and even though she had not worked on any of the [Women's Caucus] stuff, and actually had not done anything about women and HIV.

Wolfe goes on to recount that there was no surprise from rank-and-file members when T&D decided to publicly break with ACT UP, ultimately forming TAG, to maintain their insider status:

They were going to split off anyway because they had become convinced that the way to proceed was to separate politics from medicine. That is what their point was. They actually believed that their biggest impact was to design trials with the people at NIH. That's what they ended up doing. That's what TAG became—"treatment advocacy." They would sit on all these committees. They would sit on committees with drug companies, and I think that, partly, it was whatever they wanted to get out of it for themselves, and partly it was what they saw as their way of doing politics. They tried to do this reorganization of the NIH that would literally give them control of it. It didn't work. And they put out this thing that there were social issues and there were medical issues, and that they were about the medical issues.[54]

"Medical issues" cannot be separated from "social issues," just as under our current political economy health cannot be understood as abstracted, or separated, from capital. What T&D, and TAG, demonstrate is that a seat at the table is of no use if the outcome is not accessible to those who need it most. As the 1990s progressed, the HIV/AIDS landscape shifted. With many more drugs providing a legitimate chance at survival, particularly for white middle-class Americans, the HIV/AIDS crisis became increasingly socially reproduced as a problem of the Global South, and of "less developed countries," even as it continues to ravage Black, Indigenous, and poor communities in the US. Many connect the ongoing access crisis to the fact that the members of ACT UP who became insiders were more concerned with the development of an effective treatment or "cure," whatever the cost, and less concerned with helping the most vulnerable. George Carter, interviewed in 2007, portrayed this tension as such:

SS: So could you trace the current global access crisis to a lack of vision in ACT UP at those crucial moments?

GC: It's a lack of vision. I think there was a lack of—really—figuring out more novel ways to attack the industry. I think that's because there was this fear. Because the industry was, was and is holding all our lives, mine included … hostage. We're being held hostage by them, because they say, if you fuck with us too much, we'll stop looking at your drugs, we'll stop developing them. And then where will you be?

Carter situates T&D and TAG's strategies of polite collaboration as a key failure of the movement:

So that kind of colonization of the mind, I think, had a really enormously deleterious impact. Yet, on the other hand, I didn't come up with any particularly good strategies or ideas to say, how do we deal with these motherfuckers? I still don't know. I wish I did. The only thing I can think of is not something I care to put in print.[55]

Other members, in particular those who were themselves insiders, reject this assessment. When David Barr, a lawyer and founding member of both T&D and later TAG/TAC, was asked if he felt there was a relationship between the global access crisis and the decisions of ACT UP to collaborate and build intimate professional relationships with pharmaceutical companies, he firmly denied any possibility of correlation:

Did we make issues of pricing and availability of drugs up front? Yeah. The very first action was about the price of AZT, on Wall Street. Right? … For all of its problems, it's got a lot of people on treatment. It's the work of AIDS activists that have gotten hundreds of thousands of people on treatment since 2002. So, is there a crisis? Yes. But you also, I think, need to look at the tremendous advances and success that have occurred … Can you get ARVs [antiretrovirals] for, less than $50 for a, per person now, for a year? Yes. Yes. Why? Because we did our job.

Barr suggests that the ongoing nature of the global HIV/AIDS crisis is a problem of global "underdevelopment":

DB: The biggest obstacle—besides political will—is that, there is a lot of poverty and corruption and a lack of infrastructure that could, if everybody, if the leaders of the world woke up and said, let's cure AIDS today, or let's treat everybody for AIDS today, we couldn't do it … It's amazing how much we've been able to do with so little infrastructure in such a short amount of time … It's that there is no infrastructure; it's just not possible. The treatment is too complex; we can't do it in Africa. There is no infrastructure for it.

SS: So the idea that it's First World greed or racism is not the truth; that the problem is underdevelopment?

DB: Of course it's the truth.

SS: I’m serious, I’m asking you.

DB: Of, of course it’s First World greed and racism and sexism—

SS: Uh huh.

DB: —and homophobia and drug-ism—what do we call it, I don’t know. Of course it’s all of those things. But that’s not all that it is. And—and are those things the greatest obstacles at the moment? Um—I don’t know.

SS: You think underdevelopment is the greatest obstacle.

DB: Poverty. Yeah. Is probably the greatest obstacle at the moment.[56]

The early provocative actions of ACT UP were highly effective. The coalition was able to direct significant movement resources behind a broad agenda, and ACT UP did get drugs into (some) bodies. Through radical and aggressive protests activists were able to revolutionize the drug process, but it was not enough. Failure, however, is not a bad thing. As abolitionist Mariame Kaba explains, failure is integral to left movements: “Failure is actually the norm and a good way for us to learn lessons that help us.”[57]

What we must learn from ACT UP is not just their successes but their failures as well. The novel and explicit precision of their revolutionary demands captured the attention of the media, the NIH, the FDA, the CDC, the governments of New

York City and New York State, the US president, Congress, and international powers. As power to aim media's notice gave way to elite access, these demands were not only tempered but rolled back, leading to the loss of a robust and radical health justice movement that could have been. The movement for health justice was lost in the fight for the cure, as Bordowitz describes:

I really wanted us—I felt that ACT UP was a healthcare movement and that ACT UP could achieve universal healthcare within New York State. That's where all of my organizing went … So my idea was, "Okay, enough of this we're all over the place. Now it's time to kind of dig in for a long campaign, because we really have the opportunity here to get universal healthcare for the state." That brought me into tensions with a whole bunch of people …

By this time, I'm an out person with HIV within the group. And yet, that goes against the grain of the position of being an out person with HIV within the group, because to be out with HIV within the group you are really a kind of drugs-into-bodies first and foremost as a politic. I guess it had to do with treatment decisions and stuff like that. I didn't really feel like there were a lot of treatment decisions in front of me. I don't know if I had faith or not—faith that there would be a cure in my lifetime. I pretty much thought that I was going to die from this thing. And I felt that it was pretty clear that ACT UP and the AIDS movement was a catalyst for the growing healthcare movement at that time. So I was very much interested in that, and that ACT UP could join unions, and the unions could come together. It was this coalition politics idea that sexual politics, and race politics, and feminist politics could come together in such a way with the unions. I really wrote myself quite a Film International Cuba script. That increasingly brought me into alienation with the group, because the group was going in another direction. The group did not want to slow down for a long campaign.[58]

Movements for health justice must move toward a new revolutionary intersectional health communist politic, one that seeks to recapture and reassert its radical history. Resisting the oppressive control that pharmaceutical companies hold over the direction of research and development will be one such struggle of our future. It is imperative that movements look to ACT UP not only for inspiration but for guidance in embracing, and not rejecting, solidarity when faced with the tremendous pressures of capital.